

production of alternative propulsion systems may affect the long-term availability of parts for military equipment, the fuel costs for such equipment, and the sustainability of such equipment.

(C) An assessment of any technologies, including electric, hydrogen, or other sustainable fuel technologies, that may reduce operational energy demand in the near-term or long-term.

(D) An assessment of how the Secretaries concerned and the commanders of the combatant commands can better plan for challenges presented by near-peer adversaries in a contested logistics environment, including through innovative delivery systems, distributed storage, flexible contracting, and improved automation.

(E) An assessment of any infrastructure investments of allied and partner countries that may affect operational energy availability in the event of a conflict with a near-peer adversary.

(3) By authority of the Secretary of Defense, and taking into consideration the findings of the working group, the Assistant Secretary shall prescribe policies and procedures for the implementation of the strategy and make recommendations to the Secretary of Defense and Deputy Secretary of Defense with respect to specific operational energy plans and programs to be carried out pursuant to the strategy.

(4) Not later than 30 days after the date on which the budget for fiscal year 2024 is submitted to Congress pursuant to section 1105 of title 31, and every five years thereafter, the Assistant Secretary shall submit to the congressional defense committees the strategy required under paragraph (1).

(f) BUDGETARY AND FINANCIAL MATTERS.—(1) The Assistant Secretary of Defense for Energy, Installations, and Environment shall review and make recommendations to the Secretary of Defense regarding all budgetary and financial matters relating to the operational energy strategy.

(2) The Secretary of Defense shall require that the Secretary of each military department and the head of each Defense Agency with responsibility for executing activities associated with the strategy transmit their proposed budget for those activities for a fiscal year to the Assistant Secretary for review before submission of the proposed budget to the Under Secretary of Defense (Comptroller).

(3) The Assistant Secretary shall review a proposed budget transmitted under paragraph (2) for a fiscal year and, not later than January 31 of the preceding fiscal year, shall submit to the Secretary of Defense a report containing the comments of the Assistant Secretary with respect to the proposed budget, together with the certification of the Assistant Secretary regarding whether the proposed budget is adequate for implementation of the strategy.

(4) Not later than 30 days after the date on which the budget for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report on the proposed budgets for that fiscal year that were reviewed by the Assistant Secretary under paragraph (3).

(5) For each proposed budget covered by a report under paragraph (4) for which the certification of the Assistant Secretary under paragraph (3) is that the budget is not adequate for implementation of the strategy, the report shall include the following:

(A) A copy of the report set forth in paragraph (3).

(B) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budget.

(C) An appendix prepared by the Chairman of the Joint Chiefs of Staff describing—

(i) the progress made by the Joint Requirements Oversight Council in implementing the energy Key Performance Parameter; and

(ii) details regarding how operational energy is being addressed in defense planning, scenarios, support to strategic analysis, and resulting policy to improve combat capability.

(D) An appendix prepared by the Under Secretary for Defense for Acquisition and Sustainment certifying that and describing how the acquisition system is addressing operational energy in the procurement process, including long-term sustainment considerations, and how programs are extending combat capability as a result of these considerations.

(E) A separate statement of estimated expenditures and requested appropriations for that fiscal year for the activities of the Assistant Secretary in carrying out the duties of the Assistant Secretary.

(F) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(6) For each proposed budget covered by a report under paragraph (4) for which the certification of the Assistant Secretary under paragraph (3) is that the budget is adequate for implementation of the strategy, the report shall include the items set forth in subparagraphs (C), (D), and (E) of paragraph (5).

(g) ACCESS TO INITIATIVE RESULTS AND RECORDS.—(1) Each member of the working group under subsection (d) shall submit to the Assistant Secretary of Defense for Energy, Installations, and Environment the results of all studies and initiatives conducted by the respective component of the Department that the member represents for purposes of the working group in connection with the operational energy strategy.

(2) The Assistant Secretary shall have access to all records and data in the Department of Defense (including the records and data of each armed force) necessary in order to permit the Assistant Secretary to carry out the duties of the Assistant Secretary.

(h) CONTESTED LOGISTICS ENVIRONMENT DEFINED.—In this section, the term “contested logistics environment” means an environment in which the armed forces engage in conflict with an adversary that presents challenges in all domains and directly targets logistics operations, facilities, and activities in the United States, abroad, or in transit from one location to the other.

(Added and amended Pub. L. 113–291, div. A, title IX, §901(g)(1), Dec. 19, 2014, 128 Stat. 3464; Pub. L. 114–92, div. A, title X, §1081(a)(12), (b)(2), Nov. 25, 2015, 129 Stat. 1001; Pub. L. 115–232, div. A, title III, §314(a), Aug. 13, 2018, 132 Stat. 1711; As amended Pub. L. 116–92, div. A, title III, §320(a)(1)(B), (c)(1), title IX, §902(83), Dec. 20, 2019, 133 Stat. 1306, 1307, 1553; Pub. L. 117–81, div. A, title III, §351(a)–(e), Dec. 27, 2021, 135 Stat. 1650–1653.)

Editorial Notes

CODIFICATION

Subsec. (c)(3) of section 138c of this title, which was transferred to subsec. (a) (now (c)) of this section by Pub. L. 113–291, §901(g)(1)(B), was based on Pub. L. 112–81, div. A, title III, §314(a), Dec. 31, 2011, 125 Stat. 1357. Subsecs. (d) to (f) of section 138c of this title, which were transferred to subsecs. (b) to (d) (now (d) to (f)), respectively, of this section by Pub. L. 113–291, §901(g)(1)(D), were based on Pub. L. 110–417, [div. A], title IX, §902(a), Oct. 14, 2008, 122 Stat. 4564; amended Pub. L. 111–383, div. A, title IX, §901(b)(7)(B)–(D), Jan. 7, 2011, 124 Stat. 4320; Pub. L. 112–81, div. A, title III, §311, Dec. 31, 2011, 125 Stat. 1351; Pub. L. 113–66, div. A, title III, §311, Dec. 26, 2013, 127 Stat. 728.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–81, §351(a)(1), inserted “in contested logistics environments” after “missions”.

Subsec. (b). Pub. L. 117–81, §351(a)(2)(A), (B), substituted “Responsibilities” for “Authorities” in heading and “shall” for “may” in introductory provisions.

Subsec. (b)(1). Pub. L. 117–81, §351(a)(2)(C), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “require the Secretary of a military department or the commander of a combatant command to assess the energy supportability of systems, capabilities, and plans;”.

Subsec. (b)(2). Pub. L. 117–81, §351(a)(2)(D), inserted “supportability in contested logistics environments,” after “power.”

Subsec. (b)(3). Pub. L. 117–81, §351(a)(2)(E), inserted “in contested logistics environments” after “vulnerabilities”.

Subsec. (c). Pub. L. 117–81, §351(b)(1)(A), inserted “and in coordination with the working group under subsection (d)” after “components” in introductory provisions.

Subsec. (c)(1). Pub. L. 117–81, §351(b)(1)(B), substituted “Defense, including the activities of the working group established under subsection (d), and oversee” for “Defense and oversee”.

Subsec. (c)(2). Pub. L. 117–81, §351(b)(1)(C), inserted “, taking into account the findings of the working group under subsection (d)” after “Defense”.

Subsec. (c)(3). Pub. L. 117–81, §351(b)(1)(D), inserted “, taking into account the findings of the working group under subsection (d)” after “resilience”.

Subsec. (c)(5). Pub. L. 117–81, §351(e), substituted “subsection (f)(4)” for “subsection (e)(4)”.

Subsec. (d). Pub. L. 117–81, §351(b)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 117–81, §351(b)(2), (c), redesignated subsec. (d) as (e) and amended it generally. Prior to amendment, subsec. related to budgetary and financial matters relating to the operational energy strategy. Section 351(c), which directed amending subsec. (e) to read as follows but omitted the subsec. designation and heading, was executed by amending the text of subsec. (e) and retaining the existing designation and heading, to reflect the probable intent of Congress.

Subsecs. (f), (g). Pub. L. 117–81, §351(b)(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

Subsec. (g)(1). Pub. L. 117–81, §351(b)(4)(A), substituted “Each member of the working group under

subsection (d)” for “The Secretary of a military department” and “conducted by the respective component of the Department that the member represents for purposes of the working group” for “conducted by the military department”.

Subsec. (g)(2). Pub. L. 117–81, §351(b)(4)(B), substituted “armed force” for “military department”.

Subsec. (h). Pub. L. 117–81, §351(d), added subsec. (h). 2019—Pub. L. 116–92, §320(c)(1), substituted “Operational energy” for “Operational energy activities” in section catchline.

Subsec. (d)(1). Pub. L. 116–92, §320(a)(1)(B), substituted “the Defense Agencies” for “Defense Agencies”.

Subsec. (e)(5)(D). Pub. L. 116–92, §902(83), substituted “Under Secretary for Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

2018—Subsecs. (a), (b). Pub. L. 115–232, §314(a)(2), added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 115–232, §314(a)(3)(A), (B), substituted “Functions of the Assistant Secretary of Defense for Energy, Installations, and Environment” for “Alternative Fuel Activities” in heading and “heads of the appropriate Department of Defense components” for “heads of the military departments and the Assistant Secretary of Defense for Research and Engineering” in introductory provisions.

Pub. L. 115–232, §314(a)(1), redesignated subsec. (a) as (c). Former subsec. (c) redesignated (e).

Subsec. (c)(1). Pub. L. 115–232, §314(a)(3)(C), substituted “oversee the operational energy activities” for “lead the alternative fuel activities”.

Subsec. (c)(2). Pub. L. 115–232, §314(a)(3)(D), substituted “regarding the policies and investments that affect the use of operational energy across the Department of Defense” for “regarding the development of alternative fuels by the military departments and the Office of the Secretary of Defense”.

Subsec. (c)(3). Pub. L. 115–232, §314(a)(3)(E), substituted “recommend to the Secretary policy to improve warfighting capability through energy security and energy resilience” for “prescribe policy to streamline the investments in alternative fuel activities across the Department of Defense”.

Subsec. (c)(5). Pub. L. 115–232, §314(a)(3)(F), substituted “subsection (e)(4)” for “subsection (c)(4)”.

Subsecs. (d) to (f). Pub. L. 115–232, §314(a)(1), redesignated subsecs. (b) to (d) as (d) to (f), respectively.

2015—Pub. L. 114–92, §1081(a)(12), substituted “for Energy, Installations, and Environment” for “for Installations, Energy, and Environment” in subsecs. (a) to (d).

Subsec. (b)(4). Pub. L. 114–92, §1081(b)(2), amended directory language of Pub. L. 113–291, §901(g)(1)(F). See 2014 Amendment note below.

2014—Subsec. (a). Pub. L. 113–291, §901(g)(1)(E), inserted “of Defense for Installations, Energy, and Environment” after “The Assistant Secretary” in introductory provisions.

Pub. L. 113–291, §901(g)(1)(B)–(C)(ii), transferred subsec. (c)(3) of section 138c of this title to subsec. (a) of this section, inserted heading, and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively. See Codification note above.

Subsec. (a)(5). Pub. L. 113–291, §901(g)(1)(C)(iii), substituted “subsection (c)(4)” for “subsection (e)(4)”.

Subsec. (b). Pub. L. 113–291, §901(g)(1)(D), transferred subsec. (d) of section 138c of this title to subsec. (b) of this section. See Codification note above.

Subsec. (b)(1). Pub. L. 113–291, §901(g)(1)(E), inserted “of Defense for Installations, Energy, and Environment” after “The Assistant Secretary”.

Subsec. (b)(4). Pub. L. 113–291, §901(g)(1)(F), as amended by Pub. L. 114–92, §1081(b)(2), substituted “make recommendations to the Secretary of Defense and Deputy Secretary of Defense and provide guidance to the Secretaries of the military departments” for “provide guidance to, and consult with, the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments,”.